

MD 01 01407 #00001290

TO JUDGE PM

MD 01-1407 #1290

FILED ENTERED
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DEC 17 2002

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY *[Signature]* DEPUTY

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AT SEATTLE
CLERK U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE Phenylpropanolamine (PPA) Products)
Liability Litigation)

No MDL 1407

[PROPOSED] CASE MANAGEMENT
ORDER REGARDING NOTICING AND
CONDUCTING OF TRIAL
DEPOSITIONS

This document relates to all actions

Recognizing that it is impractical or impossible for the parties to call all proposed witnesses to testify in person at each and every trial to be held in this litigation, the Court permits the taking of trial depositions as follows

A Preservation Depositions Allowed

A party offering a witness to testify as to factual matters at trial may conduct a trial deposition of the witness either by agreement of the parties or by a showing that the following conditions have been met

1 that the trial for which the testimony is being preserved has actually been scheduled,

2 that the witness whose testimony is being preserved is likely to be called as a testifying witness in the case, and

3 that the witness whose testimony is being preserved has indicated that he/she may not appear to testify in person at trial

[PROPOSED] CASE MANAGEMENT ORDER
REGARDING TRIAL DEPOSITIONS - 1

Case No MDL 1407

019186 0028/973589 1

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(206) 223-7000

ORIGINAL

1290

cc: Counsel: BTR

1 **B** Scheduling

2 Unless otherwise ordered by the Court, notice of any preservation deposition shall be
3 served on Plaintiffs' and Defendants' Liaison Counsel more than 21 days before the deposition
4 date, and any objection thereto shall be filed within 7 days of the date the deposition notice is
5 served. The opposing party may in its objections raise any objection to the taking or the
6 timing of the preservation deposition. At any preservation deposition noticed pursuant to this
7 provision, reasonable time shall be provided to the opposing party to conduct cross-
8 examination of the witness. The parties will cooperate in seeking an immediate court
9 resolution to any dispute regarding the taking or timing of a preservation deposition.

10 **C** Deposition Notices

11 A party noticing a trial deposition of a proposed witness shall, at least 21 days before
12 the trial deposition, notify all other parties of the following:

13 1 The name of the witness and the basis for his/her likely unavailability,

14 2 The areas of testimony to be covered in the deposition and any opinions to be
15 inquired into,

16 3 The names of the opposing parties who might have a special interest in the
17 deposition, and

18 4 The expected length of the direct examination.

19 **D** Conduct of Examination

20 The proponent of a witness shall select one lawyer to conduct the deposition. The
21 opposing parties shall select one lawyer to handle the general cross examination of the
22 witness, however, each opposing counsel may make limited inquiry into areas of specific
23 interest to their client.

24 **E** Exhibits

25 The party taking a trial deposition pursuant to this CMO shall provide a list of trial
26 exhibits that may be offered at the trial deposition at least 10 days prior to the deposition.

1 F State Coordination

2 To continue the effort at coordinating these federal proceedings with pending actions
3 in state courts, the parties may cross-notice the trial deposition of a witness noticed in MDL
4 1407 pursuant to this CMO in any state court proceedings for use at trial in those states as
5 permitted by agreement of the parties, applicable state court rules, or order of the presiding
6 state court

7 G Scheduling

8 To the extent practicable, counsel shall consult with opposing counsel in an effort to
9 schedule trial depositions at times convenient to the witness and the parties The Court will
10 resolve any deposition scheduling issues that Lead Counsel or their designees are unable to
11 resolve


12 H Location of Deposition

13 Unless otherwise agreed to, all trial depositions shall take place within the federal
14 district in which the witness resides or works

15 I Other Matters

16 In conducting trial depositions under this CMO, the parties shall otherwise continue to
17 abide by the remaining provisions in CMO No 1 pertaining to depositions of witnesses to the
18 extent not inconsistent with this Case Management Order

19 SO ORDERED this 16th day of December, 2002

20
21 
22 Honorable Barbara Jacobs Rothstein
23 United States District Court Judge
24
25
26

1 Presented by

2 LANE POWELL SPEARS LUBERSKY LLP

3
4 By D. Joseph Hurson

5 D Joseph Hurson

6 WSBA No 09296

7 *Co-Liaison Counsel for the PPA*

8 *Manufacturer-Defendants*

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[PROPOSED] CASE MANAGEMENT ORDER
REGARDING TRIAL DEPOSITIONS - 4

Case No MDL 1407

019186 0028/973589 1

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Phenylpropanolamine,

Plaintiff,

vs.

Defendant.

Case No. 2 01-md-01407

Document number 1290 was scanned and saved on the court's file server.

By:
Deputy Clerk

DATE December 17, 2002